

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JUAN JOSE SANTILLAN, *individually and on  
behalf of others similarly situated,*

Plaintiff,  
-against-

**MEMORANDUM AND ORDER**  
Case No. 10-CV-3128 (FB) (MDG)

WALTER HENAO and CUSTOM STAINLESS  
STEEL CORP. doing business as CENTER'S  
RESTAURANT EQUIPMENT,

Defendants.

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*Appearances:*

*For the Plaintiff:*

MICHAEL A. FAILLACE, ESQ.  
Michael Faillace & Associates, P.C.  
110 East 59th Street  
32nd Floor  
New York, NY 10022

**BLOCK, Senior District Judge:**

On September 12, 2011, Magistrate Judge Go issued a Report and Recommendation ("R&R") recommending that the Court award default judgment against defendants in the total amount of \$60,193.42, consisting of \$44,242.94 in damages for unpaid overtime wages, spread of hours pay and liquidated damages under the FLSA and Labor Law, \$7,734 in prejudgment interest up to September 30, 2011 and at a daily rate of \$4.81 per day until entry of judgment, \$7,770 in attorneys' fees and \$440 in costs. *See* R&R at 27. The R&R also stated that defendants' failure to object by September 29, 2011 would preclude appellate review. *See id.* All parties received notice of the R&R, electronically or by regular mail, on the date it was filed. *See id.*

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. See *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, see *Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Court adopts the R&R without *de novo* review and directs the Clerk to enter judgment in accordance with the R&R.

**SO ORDERED.**

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FREDERIC BLOCK  
Senior United States District Judge

Brooklyn, NY  
September 30, 2011